

existing costs associated with not fewer than 2 prior rules.

(B) PROCEDURES.—An agency shall eliminate existing costs associated with prior rules under subparagraph (A) in accordance with subchapter II of chapter 5 of title 5, United States Code, and any other applicable law.

(4) GUIDANCE.—

(A) IN GENERAL.—The Director shall provide the heads of agencies with guidance on the implementation of this subsection.

(B) CONTENTS.—The topics addressed by the guidance provided under subparagraph (A) shall include—

(i) processes for standardizing the measurement and estimation of regulatory costs;

(ii) standards for determining what qualifies as new and offsetting rules;

(iii) standards for determining the costs of existing rules that are considered for elimination;

(iv) processes for accounting for costs in different fiscal years;

(v) methods to oversee the issuance of rules with costs offset by savings at different times or different agencies; and

(vi) emergencies and other circumstances that might justify individual waivers of the requirements of this subsection.

(C) DISCRETION OF DIRECTOR.—The Director shall consider phasing in and updating the guidance provided under subparagraph (A).

(d) ANNUAL REGULATORY COST SUBMISSIONS TO OFFICE OF MANAGEMENT AND BUDGET.—

(1) IN GENERAL.—Beginning with the Regulatory Plans required under Executive Order 12866 for fiscal year 2022, and for each fiscal year thereafter, the head of an agency shall—

(A) identify, for each rule that increases incremental cost, the offsetting rules described in subsection (c)(3); and

(B) provide the agency's best approximation of the total costs or savings associated with each new rule or repealed rule.

(2) INCLUSION IN THE UNIFIED REGULATORY AGENDA.—Each rule approved by the Director during the process by which the President establishes a budget under section 1105 of title 31, United States Code, shall be included in the Unified Regulatory Agenda required under Executive Order 12866.

(3) LIMITATION ON ISSUANCE.—An agency may not issue a rule if the rule was not included on the most recent version or update of the published Unified Regulatory Agenda as required under Executive Order 12866, unless the issuance of the rule was approved in advance in writing by the Director.

(4) TOTAL INCREMENTAL COST.—

(A) DETERMINATION BY OMB.—During the process by which the President establishes a budget under section 1105 of title 31, United States Code, the Director shall identify to agencies a total amount of incremental costs that will be allowed for each agency in issuing new rules and repealing rules for the next fiscal year.

(B) PROHIBITION.—An agency may not issue a rule during a fiscal year that causes the agency to exceed the total incremental cost allowance of the agency for that fiscal year under subparagraph (A) unless approved in writing by the Director.

(C) TOTAL REGULATORY COST.—The total incremental cost allowance of an agency for a fiscal year may allow an increase or require a reduction in total regulatory cost for that fiscal year.

(5) GUIDANCE.—The Director shall provide the heads of agencies with guidance on the implementation of the requirements under this subsection.

(e) GENERAL PROVISIONS.—

(1) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to impair or otherwise affect—

(A) the authority granted by law to an agency, or the head thereof; or

(B) the functions of the Director relating to budgetary, administrative, or legislative proposals.

(2) NO SUBSTANTIVE RIGHT CONFERRED.—This section does not create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

**SA 2264.** Mr. LEE submitted an amendment intended to be proposed to amendment SA 2137 proposed by Mr. SCHUMER (for Ms. SINEMA (for herself, Mr. PORTMAN, Mr. MANCHIN, Mr. CASSIDY, Mrs. SHAHEEN, Ms. COLLINS, Mr. TESTER, Ms. MURKOWSKI, Mr. WARNER, and Mr. ROMNEY)) to the bill H.R. 3684, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place in division F, insert the following:

**SEC. \_\_\_\_ . ESTIMATE OF VALUE OF ELECTROMAGNETIC SPECTRUM.**

(a) IN GENERAL.—Part A of the National Telecommunications and Information Administration Organization Act (47 U.S.C. 901 et seq.) is amended—

(1) by redesignating section 105 (47 U.S.C. 904) as section 106; and

(2) by inserting after section 104 (47 U.S.C. 903) the following:

**“SEC. 105. ESTIMATE OF VALUE OF ELECTROMAGNETIC SPECTRUM.**

**“(a) DEFINITIONS.—**In this section—

**“(1) the term ‘covered band’ means the band of frequencies between 3 kilohertz and 95 gigahertz;**

**“(2) the term ‘Federal entity’ has the meaning given the term in section 113(1); and**

**“(3) the term ‘OMB’ means the Office of Management and Budget.**

**“(b) ESTIMATES REQUIRED.—**The NTIA, in consultation with the Commission and OMB, shall estimate the value of electromagnetic spectrum in the covered band that is assigned or otherwise allocated to each Federal entity as of the date of the estimate, in accordance with the schedule under subsection (c).

**“(c) SCHEDULE.—**The NTIA shall conduct the estimates under subsection (b) for the frequencies between—

**“(1) 3 kilohertz and 33 gigahertz not later than 1 year after the date of enactment of this section, and every 3 years thereafter;**

**“(2) 33 gigahertz and 66 gigahertz not later than 2 years after the date of enactment of this section, and every 3 years thereafter; and**

**“(3) 66 gigahertz and 95 gigahertz not later than 3 years after the date of enactment of this section, and every 3 years thereafter.**

**“(d) BASIS FOR ESTIMATE.—**

**“(1) IN GENERAL.—**The NTIA shall base each value estimate under subsection (b) on the value that the electromagnetic spectrum would have if the spectrum were reallocated for the use with the highest potential value of licensed or unlicensed commercial wireless services that do not have access to that spectrum as of the date of the estimate.

**“(2) CONSIDERATION OF GOVERNMENT CAPABILITIES.—**In estimating the value of spectrum under subsection (b), the NTIA may consider the spectrum needs of commercial interests while preserving the spectrum access necessary to satisfy mission requirements and operations of Federal entities.

**“(3) DYNAMIC SCORING.—**To the greatest extent practicable, the NTIA shall incorporate

dynamic scoring methodology into the value estimate under subsection (b).

**“(4) DISCLOSURE.—**

**“(A) IN GENERAL.—**Subject to subparagraph (B), the NTIA shall publicly disclose how the NTIA arrived at each value estimate under subsection (b), including any findings made under paragraph (2) of this subsection.

**“(B) CLASSIFIED, LAW ENFORCEMENT-SENSITIVE, AND PROPRIETARY INFORMATION.—**If any information involved in a value estimate under subsection (b), including any finding made under paragraph (2) of this subsection, is classified, law enforcement-sensitive, or proprietary, the NTIA—

**“(i) may not publicly disclose the classified, law enforcement-sensitive, or proprietary information; and**

**“(ii) shall make the classified, law enforcement-sensitive, or proprietary information available to any Member of Congress, upon request, in a classified annex.**

**“(e) AGENCY REPORT ON VALUE OF ELECTROMAGNETIC SPECTRUM.—**A Federal entity that has been assigned or otherwise allocated use of electromagnetic spectrum within the covered band shall report the value of the spectrum as most recently estimated under subsection (b)—

**“(1) in the budget of the Federal entity to be included in the budget of the United States Government submitted by the President under section 1105 of title 31, United States Code; and**

**“(2) in the annual financial statement of the Federal entity required to be filed under section 3515 of title 31, United States Code.”.**

**(b) TECHNICAL AND CONFORMING AMENDMENTS.—**Section 103(b) of the National Telecommunications and Information Administration Organization Act (47 U.S.C. 902(b)) is amended—

(1) in paragraph (1), by striking “section 105(d)” and inserting “section 106(d)”; and

(2) in paragraph (2), in the matter preceding subparagraph (A), by striking “section 105(d)” and inserting “section 106(d)”.

**SA 2265.** Mr. LEE submitted an amendment intended to be proposed to amendment SA 2137 proposed by Mr. SCHUMER (for Ms. SINEMA (for herself, Mr. PORTMAN, Mr. MANCHIN, Mr. CASSIDY, Mrs. SHAHEEN, Ms. COLLINS, Mr. TESTER, Ms. MURKOWSKI, Mr. WARNER, and Mr. ROMNEY)) to the bill H.R. 3684, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

**SEC. \_\_\_\_ . DEPARTMENT OF DEFENSE SPECTRUM AUDIT.**

**(a) AUDIT AND REPORT.—**Not later than 18 months after the date of enactment of this Act, the Assistant Secretary of Commerce for Communications and Information, in consultation with the Secretary of Defense, shall—

(1) conduct an audit of the electromagnetic spectrum that is assigned or otherwise allocated to the Department of Defense as of the date of the audit; and

(2) submit to Congress, and make available to each Member of Congress upon request, a report containing the results of the audit conducted under paragraph (1).

**(b) CONTENTS OF REPORT.—**The Assistant Secretary of Commerce for Communications and Information shall include in the report submitted under subsection (a)(2), with respect to the electromagnetic spectrum that is assigned or otherwise allocated to the Department of Defense as of the date of the audit—